

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Respondent,

v.

MARCO ANTHONY GLASER,
Petitioner.

No. 2 CA-CR 2015-0394-PR
Filed February 26, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Petition for Review from the Superior Court in Pima County
No. CR20072697001
The Honorable Brenden J. Griffin, Judge

REVIEW GRANTED; RELIEF DENIED

Marco Glaser, San Luis
In Propria Persona

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MEMORANDUM DECISION

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Vásquez and Judge Miller concurred.

ECKERSTROM, Chief Judge:

¶1 Marco Glaser seeks review of the trial court’s order summarily dismissing his successive and untimely notice of and petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that order unless the court clearly abused its discretion. *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). Glaser has not met his burden of demonstrating such abuse here.

¶2 After a jury trial, Glaser was convicted of two counts of first-degree murder and three counts of aggravated assault. The trial court sentenced him to consecutive natural life terms for murder, to be followed by concurrent, 7.5-year prison terms for the aggravated assaults. We affirmed his convictions and sentences on appeal. *State v. Glaser*, No. 2 CA-CR 2011-0125 (memorandum decision filed Aug. 31, 2012).

¶3 Before this proceeding, Glaser has twice sought post-conviction relief. His first proceeding was dismissed after he failed to timely file a pro se petition when given the opportunity to do so following appointed counsel’s avowal she had found no meritorious claims to raise. He did not seek review of that determination. In Glaser’s second proceeding, the trial court summarily dismissed his notice, and this court denied relief on review. *State v. Glaser*, No. 2 CA-CR 2014-0290-PR (memorandum decision filed Nov. 14, 2014).

¶4 In August 2015, Glaser filed a notice of and petition for post-conviction relief asserting his trial counsel had been ineffective and his “constitutional rights” had been violated. The trial court

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summarily dismissed the proceeding, concluding Glaser's claims were precluded.¹ This petition for review followed.

¶5 On review, Glaser identifies several instances of what he describes as ineffective assistance of counsel and argues, for the first time, that he is raising a claim pursuant to Rule 32.1(h) that "no reasonable fact[finder] would have found [him] guilty of the underlying offenses beyond a reasonable doubt." Claims of ineffective assistance of counsel fall under Rule 32.1(a) and cannot be raised in an untimely proceeding like this one. Ariz. R. Crim. P. 32.4(a); *State v. Petty*, 225 Ariz. 369, ¶ 11, 238 P.3d 637, 641 (App. 2010). Thus, the trial court did not err in summarily dismissing the proceeding. See Ariz. R. Crim. P. 32.4(a). And we do not address Glaser's claim under Rule 32.1(h) because we do not address arguments made for the first time on review. See *State v. Ramirez*, 126 Ariz. 464, 468, 616 P.2d 924, 928 (App. 1980); see also Ariz. R. Crim. P. 32.9(c)(1)(ii) (petition for review shall contain "issues which were decided by the trial court and which the defendant wishes to present to the appellate court for review").

¶6 We grant review but deny relief.

¹The trial court characterized Glaser's filings as a notice and amended notice. Irrespective of how the filings are characterized, however, Glaser did not identify any proper basis for relief.